

Justin Lim & Stephen Lim
Smartdevil Inc.
2156 Rousseau, Montreal, Quebec, H8N 1K7 Canada
Tel: 514-919-9116 Email: stephen@smartdevil.com

January 27, 2010

Judge Sue L. Robinson
844 North King Street, Lockbox 18
Wilmington, Delaware, 19801 USA

Re: Girafa.com Inc vs. Amazon LLC et al., Case No. 07-787-SLR

Dear Judge Robinson,

We are responding to the application filed by Girafa to apply for Final Default Judgment against Smartdevil on Jan 22, 2010.

Smartdevil is a small Canadian company operated from home on a part-time basis. Since the first complaint from Girafa in Dec 2007, we have made every effort to seek an affordable attorney but because of our weak financial situation, we are not able to afford one or other attorneys are unwilling to represent us even until today. (See Annex 1 - financial records.)

Girafa has accused us on several points in the Jan 22, 2010 application for Final Default Judgment that we feel we deserve the chance to oppose their arguments. Because we lack the proper attorney representation, we would like to be given a chance to voice our points before your Honour can make a proper and fair judgment. We apologize if we are not going through proper procedure.

1. Girafa claims: "While Smartdevil complained that it could not afford to participate in the litigation, it still continued to directly compete against Girafa by participating in the infringing activity in the United States and has not show any indication that it will stop".

From our understanding, as long as the case is ongoing, the Court has not shown that the defendants have infringed on Girafa's patent. Thus, Smartdevil continues to operate its business as usual just as other defendants were doing to avoid disrupting our service to both our free and paying clients.

2. Girafa claims:

"Smartdevil cannot ignore the U.S. judicial system and at the same time continue the accused activity"

As we stated in our last letter to your Honour (April 15, 2008 - See Annex 2) "As an Internet company that is present globally, we strongly believe in **respecting laws of other countries** including the United States Laws such as copyright, taxation, patent and etc."

We feel we are being accused of ignoring the U.S. laws. In effect, we are waiting for the Court's decision if we are violating laws in the U.S. We were operating our service, just

as the other defendants were doing before their settlement with Girafa, so that our services is not disrupted to the end users.

3. Girafa claims: "Smartdevil's failure to appear and otherwise defend itself in this case, has deprived Girafa of any other means to vindicate its claim. Having its claim barred completely is the gravest prejudice to Girafa. *Hritz v. Woma Corp.*, 732 F.2d 1178, 1182 (3d Cir. 1984). "[T]his form of prejudice, when caused by defendant's own conduct, should weigh substantially in favor of upholding a default judgment."

Unlike the *Hritz v. Woma Corp.* case, Smartdevil has not ignored nor forgotten to respond to the complaint. In fact, we contacted Girafa, other defendants and the Court; and appeared in conferences on numerous occasions to show our participation in this case. Our failure to appear or defend ourself in the case is due to the financial restraint as a small home-based business in Canada. Smartdevil hopes that the U.S. Judicial system has a mechanism in place to ensure fairness for small defendants who cannot afford an attorney so that they will neither be prejudiced.

4. Girafa claims: "The defendants may not establish a meritorious defense with "simple denials or conclusory statements". Smartdevil has failed to file any responsive pleadings or otherwise show cause why default should not be granted. Its conclusory letter to the Court of April 15, 2008 (D.I. 68), stating without basis that the Girafa patent was invalid, is insufficient to establish a meritorious defense. Smartdevil's other excuse was that it could not afford to pay for the attorneys it had approached."

Your Honour, we would like to present some facts for your viewing. We present to you our financial statement for the year-ending 2007 prepared by our accountant also show a net cash positions in 2007 and 2008. (See Annex 1)

While looking for attorneys willing to represent us in the U.S., all of them seek a retainer fee of a minimum \$50,000, an amount we simply cannot afford.

5. Girafa claims: "Smartdevil has gone beyond simply ignoring the United States judicial system. Indeed, during the period that Smartdevil has ignored the lawsuit (2008-2009), Smartdevil has 1) actually increased the accused activity." This claim is in reference to plaintiff's footnote 6: "E.g Ran Ex. A, p. 2 ("More thumbshot users than ever before"), ("To accomodate the growing demand, we've doubled our server capacities to handle more load for everyone.")".

The quoted example and its accusation by plaintiff is completely flawed, misleading and without context to deliberately paint a negative picture of Smartdevil. The quote referring to Smartdevil "doubled our server capacities to handle more load" is from a very old announcement on our Web site dated back in **July 01, 2004** before the litigation even began. (See Annex 3)

6. Girafa claims: "2) [Smartdevil] continued to embed Girafa's name into its websites in hopes of diverting potential customers that are actually searching for Girafa." This claim is in reference to plaintiff's footnote 7: "Ran Ex. E ("Whether you're searching for a car, flower, photo, or girafa, thumbshots will help you find it quickly and accurately.")".

Once again, Girafa tries to paint a negative picture of Smartdevil by misleading the Court. The fact is Girafa first embedded Smartdevil's "Thumbshots" name into the Title of Girafa's <http://girafa.com> web pages as far back as Oct 12, 2004 and continues to do

so until today. (See Annex 4) As a competitive measure, Smartdevil only added the "girafa" keyword years later in Jan 14, 2006 and before the litigation. (see Annex 5)

7. Girafa claims: "3) [Smartdevil] attacked Girafa's patents in forums where there is no potential for redress against Smartdevil. Smartdevil's actions are clearly culpable." This claim is in reference to plaintiff's footnote 8: "in 2008 and 2009, Smartdevil filed five different Protests against Girafa's Canadian patent in Canadian Patent Office."

The Girafa's Canadian patent is still in the Application stage and has **not been approved** at the present time (see Annex 6). Additionally, the Canadian Intellectual Patent Office (CIPO) allows any public individual to legally protest against a patent application. (see Annex 7). The current case deals with the '904 United States patent and not the Canadian application. We don't see any relevance in plaintiff's accusation.

8. Girafa claims: "Smartdevil's website reports that it is "now serving over 200 million thumbshots per month", which is the amount Girafa used to amount to a lost of \$860,000 in damages seeked to date.

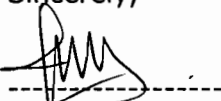
Girafa's exaggerated calculation of the damages is based on non-factual numbers. Firstly, Girafa relies on a quoted number on a of *an announcement* in the Web page that **is undated**. Secondly, Girafa completely **ignores the definition** of the phrase "200 million thumbshots", which encompasses blank images, HTTP protocol redirects, pixel icons and unavailable images, none of which have any product resemblance to what Girafa alleges Smartdevil is infringing on the '904 patent. Thirdly, Smartdevil provides images to free and paying customers **worldwide** and the alleged infringement must only take account violations, if any, in the jurisdiction of the United States. Lastly, over 99% of images served are to non-paying customers and therefore any measurable commercial damage is much less. If the Court were to award the damages based on Girafa's erroneous method of calculation and estimation, Smartdevil will be severely compromised when the company's annual sales does not even exceed anywhere near the amount Girafa estimates (see Annex 1 for financials)

Thank you your Honour for your time. We hope our arguments above can allow you to make a proper and fair judgment. Awarding a default judgment against Smartdevil will definitely put a cease on our operations as our servers are all located in the U.S. and hence, leading to closing our entire business all together. We hope your Honour can also offer us other alternatives to a default judgment.

Your Honor, please contact me to let me know what are our options.

Thank you for your time and consideration.

Sincerely,



Justin Lim

Annex 1

**CLIENT'S COPY
COPIE DU CLIENT**

3867145 CANADA INC.

FINANCIAL STATEMENTS

AS AT DECEMBER 31, 2008

YIP & ASSOCIATES

**1405 Bishop, Suite 310, Montréal, Québec, Canada H3G 2E4 Telephone: (514) 842-4810
Fax: (514) 842-9391 Email: philip.yip@bellnet.ca**

3867145 CANADA INC.

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FINANCIAL STATEMENTS

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YIP & ASSOCIATES

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YIP & ASSOCIATES

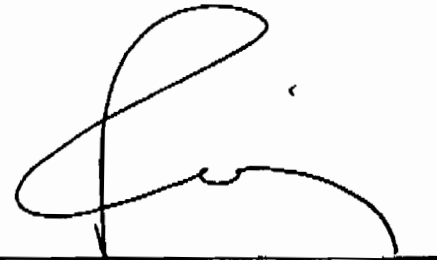
Philip Yip B. Comm., CMA, MBA

Comptable en Management Accrédité / Certified Management Accountant

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NOTICE TO READER

We have compiled the balance sheet of **3867145 CANADA INC.** as at December 31, 2008 and the statements of income and deficit for the year then ended from information provided by management of **3867145 CANADA INC.** We have not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of such information. Readers are cautioned that these statements may not be appropriate for their purposes.



Philip Yip, C.M.A., M.B.A.
Certified Management Accountant

Montreal, Quebec
May 13th, 2009

YIP & ASSOCIATES

1405 Bishop, Suite 310, Montréal, Québec, Canada H3G 2E4 Telephone: (514) 842-4810
Fax: (514) 842-9391 Email: philip.yip@bellnet.ca

3867145 CANADA INC.

Balance sheet

P. 3

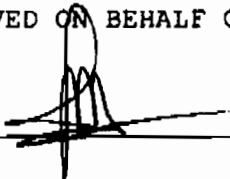
As at December 31, 2008

(Unaudited)

	<u>2008</u>	<u>2007</u>
	\$	\$
ASSETS		
Current		
Cash	33,258	1,728
Investment (Note 3)	-	92,655
Recoverable taxes	2,125	2,267
	<u>35,383</u>	<u>96,650</u>
Capital assets (Note 4)	<u>5,583</u>	<u>5,583</u>
	<u>40,966</u>	<u>102,233</u>
LIABILITIES		
Current		
Accounts payable & accrued liabilities (Note 5)	11,114	14,324
	<u>11,114</u>	<u>14,324</u>
Long-term debt (Note 6)	39,145	103,440
	<u>50,259</u>	<u>117,764</u>
SHAREHOLDER'S EQUITY		
Share capital (Note 7)	1,000	1,000
Deficit	(10,293)	(16,531)
	<u>(9,293)</u>	<u>(15,531)</u>
	<u>40,966</u>	<u>102,233</u>

Net cash = A - B = (14876) (21114)

APPROVED ON BEHALF OF THE BOARD

 , Director

SEE ACCOMPANYING NOTES

YIP & ASSOCIATES

1405 Bishop, Suite 310, Montréal, Québec, Canada H3G 2E4 Telephone: (514) 842-4810

Fax: (514) 842-9391 Email: philip.yip@bellnet.ca

3867145 CANADA INC.

Statement of income

P. 4

For the year ended December 31, 2008

(Unaudited)

	2008	2007
	\$	\$
SALES *	99,058	90,995
SELLING AND ADMINISTRATIVE EXPENSES		
Administration fee	17,000	10,000
Sub-contractor	4,420	7,008
Computer related expenses	43,380	52,045
Repair and maintenances	-	211
Telephone and communication	4,655	3,243
Advertising and promotion	709	1,920
Delivery and automobile	1,532	2,757
Travel and entertainment	1,293	2,000
Training	-	298
Legal and accounting	3,435	1,350
Office and printing	1,774	1,225
Donation	100	-
Taxes & License	1,756	6,151
Interest and other bank charges	5,589	4,213
Td VISA Expense	-	4,409
	85,643	96,830
GAIN (LOSS) BEFORE OTHER INCOME	13,415	(5,835)
Gain (loss) on foreign exchange	(7,177)	(9,946)
Investment loss	-	(5,876)
NET INCOME (LOSS)	6,238	(21,657)

* includes sales from Thumbshots, Google ads and etc

SEE ACCOMPANYING NOTES

YIP & ASSOCIATES

1405 Bishop, Suite 310, Montréal, Québec, Canada H3G 2E4 Telephone: (514) 842-4810

Fax: (514) 842-9391 Email: philip.yip@bellnet.ca

3867145 CANADA INC.**Statement of deficit****P. 5****For the year ended December 31, 2008****(Unaudited)**

	<u>2008</u>	<u>2007</u>
	<u>\$</u>	<u>\$</u>
BALANCE AT THE BEGINNING OF YEAR	(16,531)	5,126
Net Income (Loss)	<u>6,238</u>	<u>(21,657)</u>
BALANCE AT THE END OF YEAR	<u>(10,293)</u>	<u>(16,531)</u>

SEE ACCOMPANYING NOTES

YIP & ASSOCIATES

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Fax: (514) 842-9391 Email: philip.yip@bellnet.ca

3867145 CANADA INC.**Notes to financial statements****P. 6**

As at December 31, 2008

(Unaudited)

1. STATUS AND NATURE OF ACTIVITIES

The company is incorporated under the Canada Business Corporations Act and operates under the name SMARTD. It provides services to facilitate previewing of Web directories, portals and domain registrars.

2. ACCOUNTING POLICIES**Capital assets**

Capital assets are recorded at cost and are depreciated according to their estimated useful life at the following methods and rates:

	Method	Rate
Machinery & equipment	Residual Value	20%

Depreciation is only taken when deemed necessary.

3. CURRENT ASSETS

	2008	2007
	\$	\$
CDN Investment	-	92,641
Cash on USD Action	-	14
	-	92,655

4. CAPITAL ASSETS

	2008			2007
	Cost	Accumulated Depreciation	Net Value	Net Value
	\$	\$	\$	\$
Equipment and furniture	16,793	11,210	5,583	5,583
	16,793	11,210	5,583	5,583

Depreciation is only taken when deemed necessarily.

YIP & ASSOCIATES

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3867145 CANADA INC.

Notes to financial statements

P. 7

As at December 31, 2008

(Unaudited)

5. ACCOUNTS PAYABLE AND ACCRUED LIABILITIES

	2008	2007
	\$	\$
Accrued payable	11,114	14,324
	<u>11,114</u>	<u>14,324</u>

6. LONG-TERM DEBT

	2008	2007
	\$	\$
Loan from shareholders, bearing no interest and without fixed terms of repayment	39,145	103,440
	<u>39,145</u>	<u>103,440</u>

7. SHARE CAPITAL

The company is authorized to issue unlimited number of the following classes of shares with no par value.

- Common shares: Voting, participating.
- Preferred shares: Non-Voting, non-participating.

Issued and fully paid:

	2008	2007
	\$	\$
1000 Common shares @ \$1.00 per share	1,000	1,000
	<u>1,000</u>	<u>1,000</u>

8. STATEMENT OF CASH FLOWS

The statement of cash flows has not been prepared because it would not provide any additional useful information in understanding the financial position for the year.

YIP & ASSOCIATES

1405 Bishop, Suite 310, Montréal, Québec, Canada H3G 2E4 Telephone: (514) 842-4810
Fax: (514) 842-9391 Email: philip.yip@bellnet.ca

Jan 26 2010

Judge Sue L. Robinson
844 North King Street, Lockbox 18
Wilmington, Delaware, 19801 USA

Re: Girafa.com Inc vs. Amazon LLC et al., Case No. 07-787-SLR (see attachment of complaint)

Dear Judge Robinson,

Since the last conference with your Honor, we contacted the plaintiff attorney to settle this but we were offered 1) to stop our service immediately without financial damages, otherwise, 2) plaintiff will seek financial damages and injunction. The plaintiff is unwilling to offer other alternatives.

Your Honor, we plea that you set aside the default judgment because we cannot afford to defend ourselves financially. Smartdevil believes that the Girafa patent is invalid due to the substantial prior arts obtained by us and other defendants. Additionally, the Girafa application for patent in Canada has not been approved. Smartdevil offers an Internet service that is available globally for free download and for fee. Smartdevil does not have any paid clients in Delaware

Your Honor, we would like to be given the chance for the patent to be validated via pre-trial or trial by the other defendants. Should the outcome be in favor of the plaintiff, we'll take the proper steps to respect the laws of the U.S.

To date, we always showed our **good faith** in this case. Even as a **small Canadian company without attorney**, we actively participate with other defendants in their joint defense counsel. We make appearance to conference calls, discuss matters with the plaintiff attorney and spent months searching for an US attorney without success.

As an Internet company that is present globally, we strongly believe in **respecting laws of other countries** including the US. Laws such as copyright, taxation, patent and etc. No doubt, patent litigation is the most complex and expensive in the US, we believe the Court must have in place a way for small companies like us to deal fairly in this environment.

Your Honor, please contact me to let me know what are our options.

Thank you for your time and consideration.

Stephen Lim

ANNEXE 1

Smartdevil Inc. is a privately owned company incorporated in Quebec, Canada since 2001 without external fundings. The company physically operates from home located in Montreal, Quebec. We provide web thumbnail images as a free and paid service over the internet. Due to the nature of the internet, anyone from anywhere in the world is able to download our free images. The company has not been profitable since its inception and remains a small business.

Thumbshots.com | Thumbshots.org | Research



Open Thumbshots Project

Are you a visual person? ☐ Yes ☐ No [Results](#)

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Announcements

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[Attribution](#)

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[License](#)

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- Don't see your thumbshot? [Ask us](#) and we'll see if we can help.
- New educational [thumbshots attribution](#) now available.
- Now serving over 200 million thumbshots per month.
- Keep this service free by [becoming a sponsor](#).
- Try thumbshots on [CNET Search.com](#).
- Changed web site layout.
- Updated [Webmaster Guidelines](#).
- Flash and Javascript support enhanced.
- SimpleDBM scripts v1.3 released. Minor code change.
- Success Story 2: [Search engine increase traffic by 40%](#)
- Thumbshots available in [phpODP](#).
- Read [user feedbacks](#) about thumbshots!
- We doubled our server capacity to handle growing traffic.
- Success Story: [Reacteur.com traffic increased by 60%!](#)
- Thumbshots available in [DWodp Live](#) and [Pro software!](#)
- See the fast growing number of [Sites Using Thumbshots!](#)
- Added [user-contributed](#) files.
- Please donate to help support thumbshots.org.

Support this free service with a donation or sponsorship.

Support OTP by letting us know who uses it & get newsletter updates.

URL:

http://

Name:

Email:

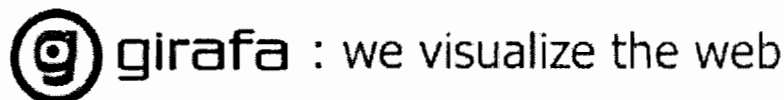
indicates the date 2004-07-01



Thumbshots.org is a Smartdevil Thumbshots.com initiative

Annex 4

BROWSER TITLE



NEWS: Girafa.com Announces Use of Girafa
Thumbnail Search Images by Netscape,
CompuServe, AIM, and ICQ Properties

HOME PRODUCTS & SERVICES COMPANY SUPPORT



Add thumbnail images to your searches,
bookmarks and textual URLs.

MORE...



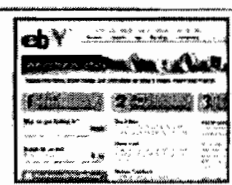
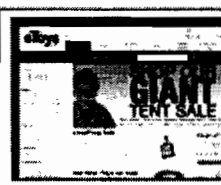
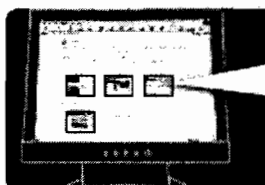
CUSTOMER LOGIN:

User:

Password:

GO!

GO!



msn

Netscape

CompuServe

AIM

icq

NETVISION

FREE
Toolbar

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Copyright © 2004 Girafa.com Inc. All rights reserved.

- See next page (source code)
- The word Thumbshot gets picked up by search engines and appears on their search results page.
- This word also appears on the top of the browser.

dated 2004-10-12

Source code of this web page

girafa[1]

```

<HTML>
<HEAD>
  <BASE href='http://girafa.com/'>
  <LINK rel=stylesheet type='text/css'
href=http://web.archive.org/web/20041012093210/http://girafa.com/files/girafa.css>
  <LINK rel=stylesheet type='text/css'
href=http://web.archive.org/web/20041012093210/http://girafa.com/files/menu.css>
  <SCRIPT language='JavaScript' type='text/javascript'
src='http://web.archive.org/web/20041012093210js_/http://girafa.com/files/valid.js'>
</script>

<TITLE>Girafa.com - We Visualize the Web. Thumbnail image service for search engines
and directories. Free toolbar. &nbsp; &nbsp; &nbsp; Thumbnails screenshots snapshots
thumbshot pictures images</TITLE>

<META HTTP-EQUIV="Content-Type" CONTENT="text/html; charset=iso-8859-1">
<META NAME="keywords" content="thumbnail, thumbnails, screenshot, screenshots,
snapshot, snapshots, preview, previews, visual, visualize, visually, web, search,
engine, directory, directories, site, sites, free toolbar, image, images, picture,
pictures, graphic, graphics, link, links, internet, online">
<script language="JavaScript" type="text/javascript"
src="http://web.archive.org/web/20041012093210js_/http://girafa.com/files/topmenu.js
"></script>

<script><!--
an=navigator.appName;sr='http://x3.extreme-dm.com/';srw="na";srb="na";d=document;r=4
1;function pr(n) {
d.write("<img
src='"+sr+"n\/?tag=girafa&p=http%3A%2F%2Fwww%2Egirafa%2Ecom&j=y&srw='"+srw+"'&srb='"+s
rb+"'&l='"+escape(d.referrer)+"&rs='"+r+"\' height=1 width=1>");}//-->
</script><script language="javascript1.2"><!--
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</script><script><!--
pr()//-->
</script><noscript><img
src=http://x3.extreme-dm.com/z/?tag=girafa&p=http%3A%2F%2Fwww%2Egirafa%2Ecom&j=n
height=1 width=1></noscript>

</HEAD>
<BODY onload="initMenus();">
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SRC=/images/logobig.gif WIDTH=394 HEIGHT=51 BORDER=0></A></TD>
<TD VALIGN=TOP WIDTH=44><IMG SRC=/images/news.gif WIDTH=38 HEIGHT=14></TD>
<TD ALIGN=LEFT VALIGN=TOP WIDTH=200 style='text-align: justify;'><A HREF=press.acr
CLASS=newslinks>Girafa.com Announces Use of Girafa Thumbnail Search Images by
Netscape, CompuServe, AIM, and ICQ Properties</A></TD>
</TR></TABLE>
<TABLE BORDER=0 CELLPADDING=0 CELLSPACING=0>
  <TR>
    <TD COLSPAN=3 ALIGN=CENTER VALIGN=TOP><TABLE CELLSPACING=0 CELLPADDING=0
BORDER=0>
  <TR>
    <TD><a href=index.acr><IMG SRC=/images/home-s.gif WIDTH=261 HEIGHT=42 BORDER=0
id="menuImg_1" class="menuImg"></A></TD>
    <TD><A HREF=products.acr><IMG SRC=/images/products-s.gif WIDTH=151 HEIGHT=42
BORDER=0 id="menuImg_2" class="menuImg"></A></TD>
    <TD><A HREF=about.acr><IMG SRC=/images/company-s.gif WIDTH=74 HEIGHT=42 BORDER=0
id="menuImg_3" class="menuImg"></A></TD>
    <TD><A HREF=faq.acr><IMG SRC=/images/support-s.gif WIDTH=266 HEIGHT=42 BORDER=0
id="menuImg_4" class="menuImg"></A></TD>

```

Annex 5

Thumbshots.com | Thumbshots.org | Thumbshots.net | Research

THUMBSHOT.ORG

Leader in web preview technology. Serving thumbshots to over 1,000 sites.

Poll: How much will Google stock be worth at the end of 2006? --- Select --- Results

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with a donation or
sponsorship

Support OTP by letting us
know who uses it & get
newsletter updates.

URL:

Name:

Email:

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FREE Thumbshots For Your Site

Announcements

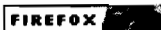
[Read past announcements](#)

- New thumbshot captures at 800x600 resolution! **NEW**
- Success story: [Ujiko.com](#) introduces thumbshots... **NEW**
- [Get thumbshots for your Google search.](#) Firefox fans!
- Success story: [Listings with Thumbshots Receive More Clicks](#)
- HTTP redirection requirements for [server-side caching](#).
- [Sponsor](#) our pages to help us!
- Search the world's largest web directory at [Thumbshots.net](#)!
- [Latest poll result](#): 90% of responders are visual people!
- You can now manually [update thumbshot](#).
- Don't see your thumbshot? [Ask us and we'll see if we can help.](#)

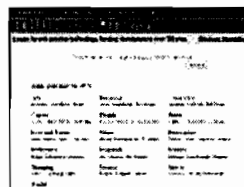
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Annex C



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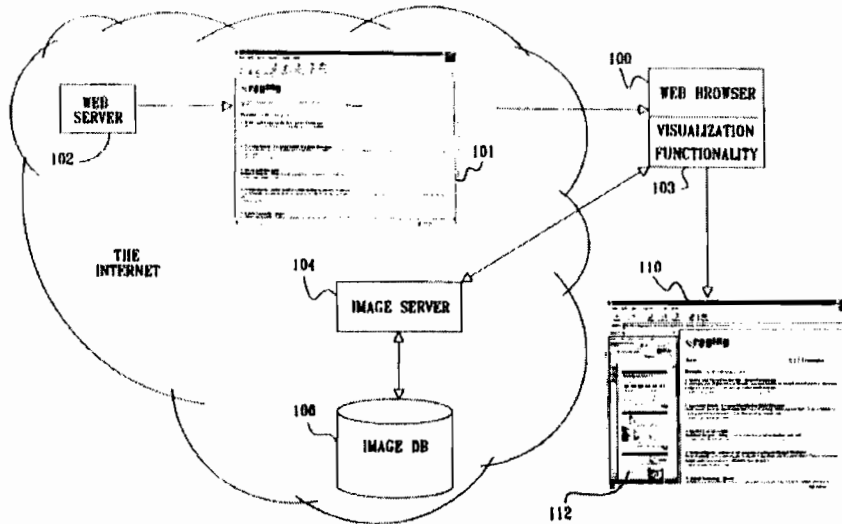
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Canadian Patents Database

Patent Summary

(12) Patent Application:	(11) CA 2428227
(54) English Title:	A FRAMEWORK FOR PROVIDING VISUAL CONTEXT TO WWW HYPERLINKS
(54) French Title:	CADRE PERMETTANT DE FOURNIR UN CONTEXTE VISUEL A DES HYPERLIENS WEB

Representative Drawing



Abstract

A method and a system for presenting Internet information to a user including providing to a user a visual image of a web page (101) containing at least one hyperlink, and at least partially concurrently providing a visual image of another web page (112) of at least one web site which is represented by the at least one hyperlink.

Note: Data on abstracts and claims is shown in the official language in which it was submitted.

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Patent Details

(51) International Patent Classification (IPC):	G06F 17/21 (2006.01) G06F 17/30 (2006.01)
(72) Inventors (Country):	RAN, SHIRLI (Israel) BARNOON, ELDAD (Israel) YAROM, YUVAL (Israel)
(73) Owners (Country):	GIRAFA.COM INC. (United States)
(71) Applicants (Country):	GIRAFA.COM INC. (United States)
(74) Agent:	FETHERSTONHAUGH & CO.
(45) Issued:	
(86) PCT Filing Date:	2001-11-06
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Examination requested:	2006-08-29
(30) Availability of licence:	N/A
(30) Language of filing:	English

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see last page

Patent Cooperation Treaty (PCT):	Yes
(86) PCT Filing Number:	PCT/IL2001/00103 1
(87) International Publication Number:	WO2002/039207
(85) National Entry:	2003-05-07

(30) Application Priority Data:

Application No.	Country	Date
09/708,191	United States	2000-11-08

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Claims	Claims	256	6
Description	Description	739	13
Drawings	Drawings	209	11
Representative Drawing	Representative Drawing	20	1

Last Updated: 2010-01-27

(74) Agent ▲

The name of the patent agent or patent agent company that represented the owner in front of the Patent Office.

(45) Issued ▲

The date an application becomes a patent.

Reissued ▲

The date that the patent was reissued after the original patent was surrendered by the patentee. For patents that were filed on or after October 1, 1989, the number remains the same as the original patent. For patents that were filed before October 1, 1989, the patent reissues with a new number. In both cases the term of the patent remains the same as the original patent.

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Re-examination Certificate ▲

Annex 7

Filing prior art and protests

After your patent application is made available to the public, anyone may raise questions about the patentability of your invention or one of its claims by filing "**prior art**" — information that might cause the patent examiner to object to one or more of your claims. The **prior art** can be patents, patent applications that have been open to public inspection, and published material that has a bearing on the case.

Anyone may also file a **protest** against the granting of a patent. Such protests will be made available to the public.

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You may have special reasons for wanting an early examination of your application. Perhaps you expect competition soon, or you hope to establish a business once you have received protection for your invention. If your case is exceptional in this way, you may ask for **advanced examination**. An **extra fee** will apply.

Note: An advanced examination request will not be considered unless the application has been laid open to public inspection and a request for examination has been made.

What to do if your claim is rejected

The patent examiner often will object to some claims. The examiner may find previous patents or publications that show every feature of one or more claims in your application. Or, the examiner may feel some claims would be obvious to a person with ordinary skills in the field. The examiner's objection will be outlined in a report or letter called a "**Patent Office action**," which will provide objections, as well as a date for reply. The action may object to your whole application, or only some claims, or it may ask for other changes in your application.

Responding to the examiner's objections

Don't feel discouraged if the examiner objects to some of your claims. You may respond to the objections as long as you do so within the period specified in the action. You or your patent agent must send the response to the Commissioner of Patents.

The response may ask the Commissioner to amend your application by changing or cancelling some claims, or adding new claims. You must meet or overcome each objection raised by the examiner.

Helping your agent with amendments

Your agent will carefully study the Patent Office action to help you decide whether to proceed, amend or abandon your application now. If you decide to continue, you may be able to help prepare an amendment letter to point out the new features and advantages of your invention, as compared to others listed in the Patent Office action. Let your agent know quickly if you want to make changes to your invention, as she or he may recommend filing a new application.

Reconsideration by the examiner

Once the examiner receives your response, she or he will study it and prepare a second Patent Office action. This may be a "notice of allowance" informing you that your application is allowable, or it may be a call for further amendments. This exchange of Patent Office actions and responses may be repeated until the examiner allows your application, or states that the action is final.

Appeals process

If the examiner makes a final objection to your application, you have the right to appeal to the Commissioner of